

THE COMMONWEALTH OF MASSACHUSETTS
Public Employee Retirement Administration Commission
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(617) 727-9380

M E M O R A N D U M

TO: All Retirement Boards

FROM: Robert F. Stalnaker, Executive Director

RE: Simultaneous Applications for Disability and Superannuation Retirement Benefits

DATE: June 15, 1998

The Commission has decided to revisit the issue of whether a member who is applying for retirement can simultaneously apply for Accidental Disability, Ordinary Disability and Superannuation retirement.

The Commission has always opined that simultaneous applications were usually not allowable. One of the few exceptions to this opinion was the provision which allowed a retirement by superannuation after a local retirement board had denied disability retirement and the member had appealed that denial to the Contributory Retirement Appeal Board (CRAB). G.L. c. 32, § 16(4) provides:

“[a]ny person, upon making an appeal involving a disability retirement allowance, shall be permitted to retire for superannuation retirement, if otherwise eligible, pending the decision of the contributory retirement appeal board, but in no event shall such action prejudice the person from receiving any further benefits which the contributory retirement appeal board may grant in its decision nor shall the person upon a finding in favor of the employer be required to reimburse the employer for payments made prior to the decision of the contributory retirement appeal board.”

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TO: All Retirement Boards
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The Appeals Court recently ruled in Leal v. CRAB that an eligible employee may apply for and receive accidental disability benefits notwithstanding that he had previously applied for and received superannuation benefits.

The Commission will now allow a member to apply for Accidental, Ordinary and Superannuation retirement simultaneously. The retirement board will begin paying benefits for the first approved retirement on the appropriate date until a subsequent retirement benefit is approved, if any.

There are circumstances where a member could owe a refund to the retirement system as a result of filing simultaneous applications. One example is when the member is receiving superannuation and Worker's Compensation and then is approved for Accidental Disability retirement. The Accidental Disability retirement will be retroactively offset against the Workers' Compensation already paid and the member may owe money back to the retirement system. The retirement board should carefully discuss such implications with the member when they choose the simultaneous application method.